REMARKS/ARGUMENTS

Claims 1-16 and 18-20 were pending in the present application. By virtue of this response, new Claims 21-22 have been added. Accordingly, Claims 1-16 and 18-22 are currently under consideration. Amendment or cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter has been added.

Rejections

The Examiner rejected Claims 1, 7-10 and 18-20. Claims 1, 7, 9, 19 and 20 stand rejected under 35 U.S.C. §103 as being unpatentable over Sako in view of ECMA. Claim 18 stands rejected under 35 U.S.C. §103 as being unpatentable over ECMA. Claims 8 and 10 stand rejected over Sako in view of ECMA and further in view of Iwasaki.

The Examiner indicated that Claims 2-6 and 11-16 were objected to as being dependent upon a rejected base claim but allowable if rewritten in independent form. The Examiner is thanked for his consideration of these dependent claims and indication of the allowability of same.

Specifically in rejecting Claims 1, 7, 9, 19 and 20, the Examiner stated in pertinent part at page 3 of the Action:

> Sako does not teach a decoding system ... adopted to invert at least one bit at a predetermined location in at least one frame received from the recording frame reader, wherein only after the inversion the at least one frame has a correct or valid value according to the predetermined ECMA standard.
>
> ECMA teaches a decoding system ... adopted to invert at least one bit at a predetermined location and at least one frame received from the recording frame reader (page 14, figure 11), wherein only after the inversion the at least one frame has a correct or valid value according to the predetermined ECMA standard.

In the following paragraph at the top of page 4, the Examiner concludes in pertinent part:

> It would have been obvious to one of ordinary skill in the art ... to invert at least one bit at a predetermined location and only after the inversion via at least one frame has a correct or valid value according to the predetermined ECMA standard ... because the optical medium player will be able to correctly reproduce the contents of the optical medium, as defined by the ECMA standard.

In rejecting Claim 18 citing only ECMA, the Examiner stated in pertinent part:

> ECMA does not specifically teach at least one bit at a predetermined location in the data frame is inverted so as to have an incorrect or invalid value according to the predetermined ECMA standard.
>
> It would have been obvious ... to invert certain bits of the ECMA standard during recording, as taught by ECMA. It would have been obvious ... because the incorrect values inhibit copying of the data from the optical medium by any standard optical medium player, as defined by the ECMA standard.

All Rejections are Traversed

The rejections are all traversed. The traversal is on the grounds that (1) the Examiner's interpretation of the references appears to be contradictory and hence does not support any of the rejections; (2) the Examiner's citation of the ECMA standard for both rejections is not consistent with the use and understanding of one of ordinary skill in the art of technical standards; and (3) even given the suggested combination of references, the cited references either alone or in combination fail to meet the present claims.

First, there is a contradiction in the Examiner's understanding of the references. See the above quotes from the Action. At page 3 of the Action (last paragraph), the Examiner cites the ECMA standard as teaching the bit inversion. Then in the rejection of Claim 18 on page 7 (second paragraph), the Examiner admits that ECMA does not teach bit inversion. This clearly is contradictory. Hence the rejection citing the combination of the ECMA and Sako references (page 3) appears to contradict his rejection citing ECMA only (page 7). This points out the

weakness in both of the §103 rejections which therefore are not well founded.

Second, it is respectfully submitted that the Examiner ignored the fact that the ECMA reference is designated a "standard". There are numerous ECMA standards pertaining to data recording, several of which are listed in the present specification at page 4. Merely as a matter of information, the particular ECMA standards document cited by the Examiner is ECMA Standard ECMA-130 (see cover page of same). However in all cases these are clearly designated as standards. ECMA is a well known European standards group and sets standards for, e.g., data interchange. The whole point of a "standard" is that if one wants to use it, one conforms to the standard 100%. Any modifications would result in the optical data media and corresponding drives or players being non-standard and hence the resulting non-standard optical data media are likely not playable on standard-compliant drives or players. There is no suggestion or guidance in the ECMA standards documents to modify the ECMA standards to be proprietary or other than non-standard. Hence concluding that the ECMA standard teaches or suggests this non-compliance is illogical.

On the other hand, the present invention is clearly directed to such a non-compliant recording system, see present specification "Summary of the Invention" at page 2, line 13 which says: "In particular, a need has arisen for a DVD encoding and decoding scheme which results in a proprietary DVD format." (emphasis added.) As further stated in the Summary of the Invention at page 3, line 10 "These complementary encoding and decoding schemes provide a method for creating and reading proprietary format DVDs which may not be read or copied by conventional DVD players." (emphasis added.) This emphasizes the non-standardness of the method and apparatus in accordance with the present invention, which is also recited in the claims.

Traversal of Rejection of Claims 1, 7, 9, 19 and 20

It is respectfully submitted that the Examiner misunderstood or misstated the teachings of the ECMA document in the last paragraph on page 3 of the Action as quoted above. Specifically, the Examiner there said "ECMA teaches a decoding system having an input terminal coupled to an output terminal of the recording frame reader and adopted to invert at least one bit at a

predetermined location and at least one frame received from the recording frame reader (page 14, figure 11), wherein only after the inversion do at least one frame has a correct or valid value according to the predetermined ECMA standard." It is not seen where the cited ECMA document at page 14, figure 11 or elsewhere, teaches anything like this. There appears to be no reference to "inversion" or "inverting" at page 14 or elsewhere in ECMA. Figure 11 is a diagram showing the sector mode, that is the fields in a sector. There is no suggestion of inversion or inverting in Figure 11. There is especially nothing here about any corresponding inverting function in the decoding system. It is acknowledged that the ECMA document includes error correction, see Annex A but it is not seen why this is particularly pertinent to the present claims. Of course in general there would be no discussion in the ECMA document about inverting so as to depart from the standard because the whole point of the ECMA document is that it is the standard.

Hence the rejection here of all Claims 1, 7, 9, 19 and 20 is traversed for the reason that the ECMA document fails to teach the feature relied upon by the Examiner in his rejection of Claims 1, 7, 9, 19, and 20.

It is suggested that perhaps an alternate §103 rejection would be grounded on the Examiner's understanding that the ECMA document teaches the ECMA standard. Sako teaches enciphering for data security which arguendo in some ways departs from an ECMA standard. Hence Sako arguendo teaches a proprietary format of some type. Moreover, Sako teaches error correcting which involves presumably at some point some type of bit inversion for the ciphering/deciphering. See for instance Sako inverter portion 142a cited in Sako at column 14, line 39 and column 15, line 36. But, even then after performing this bit inversion for deciphering, Sako's data fails to meet the ECMA standard due to his use of the ciphering/deciphering which itself does not conform to the ECMA standard and would presumably require additional circuitry and software in the player in order to read the enciphered data.

Note that the present application disparages this Sako approach at page 1, line 6 which states "Therefore, well known methods such as encryption may be problematic since they may require inclusion in the player of the dedicated encryption integrated circuit. Since the encryption

must be performed in real time, software decryption is generally less useful in this context." Sako does indeed require dedicated decryption circuitry including the inverter 142a in Fig. 20 or similar extra circuitry somewhere in the player.

Hence the Examiner in effect admits that by itself, Sako fails to meet Claims 1, 7, 9, 19 and 20 or make them obvious and so he cited ECMA in combination with Sako. However, ECMA, to the contrary, adds nothing to the rejection since there was nothing in ECMA to teach the inversion in order to arrive at ECMA valid data. This is because the ECMA document does not recognize the possibility of other than ECMA standard compliant data. If anything, Sako would be more likely to teach the use of a proprietary format but the Examiner admits that Sako by itself fails to meet these claims. Hence the rejection citing the combination of Sako and ECMA of Claims 1, 7, 9, 19 and 20 for this additional reason is inadequately supported and should be reconsidered and withdrawn.

Further, the rejection of all Claims 1, 7, 9, 19 and 20 is further traversed on the grounds that even the combination of Sako and ECMA fails to meet them. The Examiner admits that Sako fails to teach the inverting of at least one bit. The Examiner cites ECMA to show this feature and states in the Action at page 4 (also quoted above) "It would have been obvious to invert at least one bit at a predetermined location and only after the inversion ... because the optical medium player will be able to correctly reproduce the contents of the optical medium, as defined by the ECMA standard." However, there is no suggestion as to <u>why</u> the bit would ever be inverted in the first place in <u>either</u> reference. The ECMA standard does not appear to provide for bit inversion of any selected bit. While bits may accidentally be inverted due to errors, this would be accommodated by the error correction circuitry and the bit location of the error of course would not be "predetermined". Hence even the combination of the two references fails to meet these claims and they are further allowable for this reason.

Rejection of Claim 18 Traversed

The Examiner rejected Claim 18 citing ECMA under 35 U.S.C. §103. The Examiner's

motivation for the modification to the actual teachings of ECMA to meet Claim 18 is that (see page 7 of Action) "It would have been obvious to invert certain bits of the ECMA standard during recording because the incorrect values inhibit copying of the data from the optical medium by any standard optical medium player as defined by the ECMA standard." Of course, this assumes knowledge of the recorded data being in a non-proprietary format. But this is not disclosed or even suggested by the ECMA document. Hence it is not seen why there is an actual motivation to do so, except given the teachings in accordance with the present invention. The Examiner admits, by resorting here to a §103 rejection, that ECMA fails to anticipate Claim 18. However, the Examiner's reasoning to modify ECMA to meet Claim 18 under §103 is circular, requiring knowledge of an aspect of the invention, that is, a non-ECMA compliant proprietary standard. Since the whole point of the ECMA standard is to conform to same and ECMA itself does not suggest departures from same, it is not seen why this particular modification is motivated by the ECMA standard itself or by anything else in the cited references. Hence the rejection of Claim 18 is also traversed.

New Claims 21, 22

Applicant added two new Claims 21-22 here, dependent on respectively Claims 1 and 18. Both new Claims 21 and 22 are directed to a similar feature. Claim 21 says "prior to the inversion, all of the read channel bits have a correct or valid value according to the predetermined ECMA standard." This is supported by, for instance, the present specification, page 4, lines 17-21, see beginning line 18 "The successive transformation ... as described in ECMA-267 but with certain modifications to create a proprietary DVD format." (emphasis added.) Hence except for the modifications, the remainder of the data adheres to the ECMA standard and Claim 21 is directed to this aspect. It is respectfully submitted that Claim 21 distinguishes over the references, in addition to its dependency on allowable Claim 1, because neither cited reference teaches or suggests the feature of Claim 21. ECMA teaches that all bits, without inverting, have a correct or valid value. Sako, arguendo as the Examiner believes to be a modification of the ECMA standard, would have a large number of non-conforming bits due to Sako's use of ciphering. That is, it would appear that most of the ciphered bits in Sako would be in non-ECMA compliant data and could be read only

with the use of deciphering. Hence Sako, even in combination with ECMA, fails to meet Claim 21.

For similar reasons, new Claim 22 is also additionally allowable over the references.

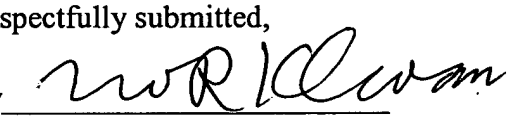
CONCLUSION

In view of the above, all pending claims in this application are believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone interview would expedite prosecution, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 136922002400. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: June 22, 2004

Respectfully submitted,

By 

Norman R. Klivans
Registration No.: 33,003
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, California 94304
(650) 813-5850